

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY EIDEM,

Plaintiff,

v.

KATHLEEN ALLISON, et al.,

Defendants.

Case No. 1:23-cv-01198-JLT-BAM

**ORDER TO SHOW CAUSE WHY
DEFENDANTS' MOTION TO DISMISS
DEFENDANT B. GREEN FROM
PLAINTIFF'S SECOND AMENDED
COMPLAINT SHOULD NOT BE
GRANTED**

FOURTEEN (14) DAY DEADLINE

This action proceeds on Plaintiff's Second Amended Complaint against Defendants Barry Green, CDCR Officer C. Vang, and DOES 1-15. (Doc. 21.) On September 20, 2024, Defendants Green and Vang filed a motion to dismiss Defendant B. Green from the Second Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). (Doc. 31.) The motion was referred to the undersigned for appropriate action on October 23, 2024 (Doc. 33.)

Although Plaintiff is now represented by counsel in this action, the Court advised Plaintiff of its general practice to continue to apply the motion briefing schedule in Local Rule 230(l) and certain other local rules concerning actions in which one party is incarcerated and proceeding in propria persona, even in actions where the plaintiff is later represented by counsel. (*See* Doc. 20 at 1 n.1.)

Local Rule 230(l) requires that opposition, if any, to the granting of the motion shall be

1 served and filed by the responding party not more than twenty-one (21) days after the date of
2 service of the motion. L.R. 230(l). A responding party who has no opposition to the granting of
3 the motion shall serve and file a statement to that effect, specifically designating the motion in
4 question. L.R. 230(l). “Failure of the responding party to file an opposition or to file a statement
5 of no opposition may be deemed a waiver of any opposition to the granting of the motion and
6 may result in the imposition of sanctions.” L.R. 230(l). Plaintiff’s opposition or non-opposition
7 to the motion to dismiss was due no later than October 11, 2024. To date, no opposition has been
8 filed.

9 Accordingly, it is HEREBY ORDERED that Plaintiff shall show cause by WRITTEN
10 RESPONSE **within fourteen (14) days of service of this order** why the motion to dismiss
11 Defendant B. Green from this action should not be granted based on Plaintiff’s failure to file a
12 timely opposition. Plaintiff may comply with the Court’s order by filing an opposition or
13 statement of non-opposition to Defendants’ motion to dismiss. Plaintiff is advised that failure to
14 comply with the Court’s order will be deemed a waiver of any opposition to the granting of the
15 motion.

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17 IT IS SO ORDERED.

18 Dated: November 4, 2024

19 /s/ Barbara A. McAuliffe
20 UNITED STATES MAGISTRATE JUDGE
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